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HONOURABLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO:28269 of 1996

DATED: 24-01-2007

Between:

A.Vijendra Rao

..... PETITIONER

AND

1. The Regional Manager, Regional Office, Central Bank of India, Bank Street, Hyderabad and another.

.....RESPONDENTS

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ORDER:

The impugned order of removal from service is sought to be challenged by the petitioner, an erstwhile sub-accountant of the Central Bank of India, Begum Bazar Branch, Hyderabad, on the ground of no evidence.

Sri R.K.Suri, learned counsel for the petitioner, would submit that since the charges relate mainly to grant of temporary overdrafts, and inasmuch as the temporary overdrafts were granted based on the instructions of the Branch Manager, the petitioner cannot be held guilty of the charges. Learned counsel would rely extensively on the enquiry report in support of this contention.

It is necessary to note that, while charge 1 relates to grant of temporary overdrafts for 23 account holders, charge No.2 relates to the petitioner having passed cheques in his own over draft account over and above the sanctioned

limit without obtaining prior sanction and that the overdraft account was overdrawn on seven occasions. The third charge is that the petitioner had passed cheques in the overdraft account of the Branch Manager over and above the sanctioned limits. The fourth charge is that the petitioner had failed to report the nature of the transactions of allowing temporary overdrafts in the relevant control returns and had thereby suppressed facts from the higher authorities. The fifth charge is that the petitioner had cancelled the fixed deposit for Rs.70,000/- and had paid the amount to the beneficiaries without adjusting the overdraft given to one Mr.Vittal Reddy for which the said deposit was given as a lien. The petitioner was charged of having paid the amount to the depositor without verifying the relevant records thereby making the outstanding balance in overdraft account as unsecured. Charge No.5 is that the petitioner had sanctioned a demand loan for Rs.4,500/- against the deposit without adjusting the loan amount as a result of which the outstanding balance had become fully unsecured. The 6th charge was that the petitioner failed to follow the instructions of Central Office/RBI guidelines regarding payment of deposits in cash on maturity. The seventh charge was for sanctioning the loan to a depositor against his fixed deposit and altering the amount as Rs.6,000/- on the demand promissory note and that a cash voucher for Rs.6,000/- was prepared without bearing the loanee's discharge. The eighth charge relates to the petitioner's failure to obtain documents for a loan of Rs.30,297/- to one Mrs.Sangamma. The ninth charge relates to procedural lapses committed by the petitioner while sanctioning demand loans. An enquiry was held and the enquiry officer held the petitioner guilty of certain charges.

With regards charges 1 (5), 1 (6), 1 (7), 1 (10), 1 (14), 1 (15), 1 (16), 1 (17) and 1 (20 and 21) which were held established the enquiry officer held that no reference book was maintained by the bank, the petitioner had failed to bring to the notice of higher authorities the irregular overdrafts, during credit squeeze which was allowed by the Branch Manager but had preferred to allow temporary overdrafts along with the Branch Manager knowing fully well that such temporary overdrafts ought not to have been granted. The enquiry officer held that though the petitioner did not have any power to allow clean facilities he had usurped the powers of higher authorities. With regard to the second charge the enquiry officer held that, except for sub item No.6, the other parts of the second charge were proved. With regards the third charge the enquiry officer held that the petitioner had enabled the branch manager to enjoy bank funds beyond the prescribed limits. With regards charge No.4 the enquiry officer held that though the control returns are prepared by clerks the petitioner should have supervised the returns to ensure that all temporary overdrafts, which were allowed, were reported in the returns. With regards charge No.5 the enquiry officer held that the petitioner was negligent in not keeping the deposit receipts in safe custody of the bank in order to prohibit payment by presenting the deposit receipts across the counter. The enquiry officer held that, knowing fully well, the petitioner had lent his hand in putting his signature for passing of the deposits for payment in cash though he was aware that, for an amount of above Rs.20,000/-, the deposit receipts should not be paid in cash. With regards charge No.6 the enquiry officer held that the petitioner had put his signature on Ex.ME-92 with instructions to M.W.2 to release cash payment which established that the central office guidelines enumerated in Ex.ME-107 had been violated. With regards the seventh charge the enquiry officer held that

while the borrower had approached only for a loan of Rs.4,000/- and had received Rs.4,000/- after executing the relevant documents and discharging the debit voucher for Rs.4,000/-, a new voucher for Rs.6,000/- was prepared undischarged by the borrower which would establish that the demand loan ledger folio and documents were altered by the petitioner himself from Rs.4,000/- to Rs.6,000/-. With regards charge No.7 the enquiry officer held that the Chief Cashier had acted on instructions of the petitioner to disburse the loan of Smt.Sangamma to Sri A.Vittal Reddy. With regards charge No.8, that a loan was granted to a third party against the deposit of another customer, the enquiry officer held that the charge was proved. In conclusion, the enquiry officer held that there was no reference book in the branch, that the action of the petitioner in granting temporary overdraft demand loans was never questioned by the Branch manager, that temporary overdrafts were allowed under the influence of bank customers by the petitioner, that the petitioner had overdrawn amounts from his overdraft account and as a result the branch manager had also taken amounts over and above the limits of his overdraft account. The findings of the enquiry officer are based on the evidence on record and cannot be said to be either perverse or as based on no evidence.

It is well settled that this Court, in proceedings under Article 226 of the Constitution of India, would not sit in an appeal over findings of fact recorded in a domestic enquiry nor would it
re-appreciate the evidence on record or substitute its findings for that of enquiry officer or the disciplinary authority. Since the only contention, in support of the challenge to the order of removal, is that the findings of the enquiry officer are based on no evidence, which contention has now been rejected, the writ petition fails and is accordingly dismissed. However, in the circumstances, without costs.

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24th January, 2007

SKM